

# Order

Michigan Supreme Court  
Lansing, Michigan

October 21, 2015

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2013-26

Stephen J. Markman

Brian K. Zahra

Amendments of Rules 2.614 and  
7.209 of the Michigan Court Rules

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Justices

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 2.614 and 7.209 of the Michigan Court Rules are adopted, effective January 1, 2016.

[The present language is amended as indicated below by underlining for new text and strikeover for text that has been deleted.]

## Rule 2.614 Stay of Proceedings to Enforce Judgment

### (A) Automatic Stay; Exceptions: Injunctions, Receiverships, and Family Litigation.

- (1) Except as provided in this rule, execution may not issue on a judgment and proceedings may not be taken for its enforcement until ~~the expiration of 21 days after a final judgment (as defined in MCR 7.202[6]) is entered in the case its entry.~~ the expiration of 21 days after a final judgment (as defined in MCR 7.202[6]) is entered in the case. If a motion for new trial, a motion for rehearing or reconsideration, or a motion for other relief from judgment is filed and served within 21 days after entry of the judgment or within further time the trial court has allowed for good cause during that 21-day period, execution may not issue on the judgment and proceedings may not be taken for its enforcement until the expiration of 21 days after the entry of the order deciding the motion, unless otherwise ordered by the court on motion for good cause. Nothing in this rule prohibits the court from enjoining the transfer or disposition of property during the 21-day period.

(2)-(3)[Unchanged.]

(B)-(G)[Unchanged.]

## Rule 7.209 Bond; Stay of Proceedings

### (A) Effect of Appeal; Prerequisites.

- (1) Except for an automatic stay pursuant to MCR 2.614, or except as otherwise provided under this rule, an appeal does not stay the effect or enforceability of a judgment or order of a trial court unless the trial court or the Court of Appeals otherwise orders. An automatic stay under MCR 2.614(D) operates to stay any and all proceedings in a cause in which a party has appealed a trial court's denial of the party's claim of governmental immunity.

(2)-(3)[Unchanged.]

(B) Responsibility for Setting Amount of Bond in Trial Court.

- (1) Civil Actions. Unless determined by law, or except as otherwise provided by this rule, the dollar amount of a stay or appeal bond in a civil action must be set by the trial court in an amount adequate to protect the opposite party.

(2) [Unchanged.]

(C)-(D)[Unchanged.]

(E) Stay of Proceedings by Trial Court.

- (1) ~~Except as otherwise provided by law or rule, the trial court may order a stay of proceedings, with or without a bond as justice requires. Unless otherwise provided by rule, statute, or court order, an execution may not issue and proceedings may not be taken to enforce an order or judgment until expiration of the time for taking an appeal of right.~~

(2) An appeal does not stay execution unless:

- (a) ~~When the stay is sought before an appeal is filed and a bond is required,~~ With respect to a money judgment, the party seeking the stay shall file with the court a bond in compliance with MCR 3.604 and in an amount not less than 110% of the judgment or order being enforced, including any costs, interest, attorney fees, and sanctions assessed to the date of filing the bond, with the party in whose favor the judgment or order was entered as the obligee, by which the party promises to
  - (i) perform and satisfy the judgment or order stayed if it is not set aside or reversed; and
  - (ii) prosecute to completion any appeal subsequently taken from the judgment or order stayed and perform and satisfy the

judgment or order entered by the Court of Appeals or Supreme Court, or

(b) ~~If a stay is sought after an appeal is filed, any bond must meet the requirements set forth in subrule 7.209(F).~~ With respect to all other judgments, including those obtained in a domestic relations matter, the trial court grants a stay with or without bond, or with a reduced bond, as justice requires or as otherwise provided by statute (see MCL 500.3036).

(c) The court may order, on stipulation or otherwise, other forms of security in lieu of the bond in subsection (E)(2)(a), including but not limited to an irrevocable letter of credit.

(3) When the bond or other security in subsections (E)(2)(a)-(c) is filed, the judgment or order shall automatically be stayed pending entry of a final order under subsection (G).

~~(2)-(4)~~ [Renumbered as (4)-(6), but otherwise unchanged.]

(F) Conditions of ~~Appeal~~Stay Bond.

(1)-(2) [Unchanged.]

(G) Sureties and Filing of Bond-; Service of Bond; Objections; Stay Orders. Except as otherwise specifically provided in this rule, MCR 3.604 applies. A bond must be filed with the clerk of the court ~~which~~that entered the order or judgment to be stayed.

(1) Civil Actions. ~~A bond in a civil action need not be approved by a court or clerk before filing but is subject to the objection procedure provided in MCR 3.604.~~

(a) A copy of a bond and any accompanying power of attorney or affidavit must be promptly served on all parties in the manner prescribed in MCR 2.107. At the same time, the party seeking the stay shall file a proposed stay order pursuant to MCR 2.602(B)(3). Proof of service must be filed promptly with the trial court in which the bond has been filed.

(b) Objections shall be filed and served within 7 days after service of the bond. Objections to the amount of the bond are governed by MCR

2.602(B)(3). Objections to the surety are governed by MCR 3.604(E).

- (c) If no timely objections to the bond, surety, or stay order are filed, the trial court shall promptly enter the order staying enforcement of the judgment or order pending all appeals. The stay shall continue until otherwise ordered by the trial court or an appellate court.
- (d) Any stay order must be promptly served on all parties in the manner prescribed in MCR 2.107. Proof of service must be filed promptly with the trial court.
- (e) All hearings under this rule may be held by telephone conference as provided in MCR 2.402.
- (f) For good cause shown, the trial court may set the amount of the bond in a greater or lesser amount adequate to protect the interests of the parties.
- (g) A bond may be secured under MCL 600.2631.

(2) [Unchanged.]

(H)-(I)[Unchanged.]

*Staff Comment:* These amendments relate to stay bonds. The amendments of MCR 7.209 are modeled on the recent revisions of MCR 7.108, the circuit court appeals rule, and provide that filing a bond automatically stays enforcement of a money judgment or order. The amendments further clarify that the automatic stay provision does not apply to domestic relations matters, in which a stay must be ordered by the trial court. The amendment of MCR 2.614 coordinates with the amendment of MCR 7.209 and clarifies that execution may not issue until 21 days after a *final* judgment enters in a case.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 21, 2015

Clerk